

1979 WL 42801 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 8, 1979

*1 The Honorable Horace C. Smith
Senator—Dist. No. 4
Post Office Box 1144
Spartanburg, South Carolina 29301

Dear Senator Smith:

With reference to our telephone conversation last week, I have talked with Mr. McLeod and with Bert Goolsby, and we are in agreement that legislation postponing the abolition of county courts, standing masters, masters-in-equity, and special referees from July 1, 1979, which is the date on which they are presently scheduled to expire pursuant to Article VII, Section 5 of Act No. 690 of 1976 [59 STAT. 1859 (1976)], until July 1, 1980, would most probably be unconstitutional based on previous opinions of the South Carolina Supreme Court which have invalidated any legislative extensions of the present, non-unified judicial system. See, e.g., [State ex rel. McLeod v. Court of Probate, 266 S.C. 279, 223 S.E.2d 166 \(1975\)](#); [State ex rel. McLeod v. Crowe, — S.C. —, — S.E.2d —](#), (Opinion No. 20805 filed November 13, 1978). Moreover, Act No. 690 of 1976 itself provides in Article XI, Section 2 thereof:

The Supreme Court in its discretion by rule or order may delay in whole or in part for a period of up to one year the abolition of any court scheduled to be abolished as provided by this act.

With kind regards,

Karen LeGraft Henderson
Senior Assistant Attorney General

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